

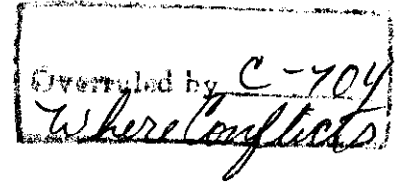


# THE ATTORNEY GENERAL OF TEXAS

AUSTIN 11, TEXAS

**WILL WILSON**  
ATTORNEY GENERAL

December 8, 1960



Honorable Leon Stone  
Vice Chairman  
Board of Trustees  
The Teacher Retirement  
System of Texas  
State Office Building  
Austin, Texas

Opinion No. WW-971

Re: Whether Opinion of the  
Attorney General No.  
WW-548 also applies to  
investment of the funds  
of the Teacher Retirement  
System of Texas.

Dear Mr. Stone:

In requesting an opinion you ask whether Opinion No. WW-548, written to the Employees Retirement System of Texas, applies to the Teacher Retirement System and "whether the rules of the Board of Regents of The University of Texas may be followed by our system and how much discretion we have in following these policies."

Opinion of the Attorney General No. WW-548, a copy of which is attached, should be read as a part of this opinion.

Opinion No. WW-548, dated January 16, 1959, concerns investment of the retirement funds of the Employees Retirement System in corporate stocks and bonds and is based primarily upon the applicable language contained in Section 62(a), as amended, of Article XVI of the Constitution of Texas, and in Section 7A of Article 6228a, V.C.S., as amended.

The investment of funds of the Teacher Retirement System in such securities is authorized by Section 48a, as amended, of Article III of the Constitution of Texas, and by Section 13 of Article 2922-1, V.C.S., as amended, and since the applicable portions of each of the said constitutional provisions are practically identical, as are the applicable portions of the two statutes, Opinion No. WW-548 would apply also to such investment of Teacher Retirement funds.

On October 22, 1960, the Board of Regents of The University of Texas adopted certain amended policies " . . . as providing safeguards and standards of eligibility for investments which the Board of Regents deem proper investments for the Permanent University Fund . . .," such action being reflected by the following excerpt from its minutes:

"After presentation by Vice-Chancellor Dolley of the amended and edited policies governing the investment program for the Permanent University Fund of The University of Texas, a motion was made by Regent Thompson and seconded by Regent Hardie to adopt the policies as amended and edited as providing safeguards and standards of eligibility for investments which the Board of Regents deem proper investments for the Permanent University Fund under the provisions of Section 11a, Article VII, Constitution of the State of Texas, which authorizes investment of up to 50% of the Fund in corporate securities. The Board of Regents with eight members present unanimously adopted the policies as amended and edited and directed the Secretary of the Board to spread the full copy of the 'Policies Governing Permanent University Fund of The University of Texas Investment Program,' as amended and edited through October 22, 1960, on the permanent minutes of the Board of Regents."

In the amended "Policies Governing Permanent University Fund of The University of Texas Investment Program," so adopted, on pages 11 to 15, both inclusive, the Board of Regents has formally approved by name more than one hundred thirty (130) corporations whose corporate bonds, preferred stocks and common stocks are eligible for purchase by the Permanent University Fund. Additionally, in paragraph IV B on page 3, it is provided that corporate bonds issued by corporations not on this approved list are approved by the Board of Regents for purchase either on original offering or in the

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secondary market provided such corporate bonds meet the standards and requirements there set out.

While the best evidence is the actual investment of the Permanent University Fund (see WW-548), we believe that this minute order of October 22, 1960, by the Board of Regents also constitutes clear and sufficient evidence as to what corporate securities the Board of Regents deems to be proper investments for the Permanent University Fund, and that similar actions properly taken by that Board in the future will also afford, under existing law, sufficient evidence thereof.

Accordingly, funds of both the Employees Retirement and Teacher Retirement Systems may properly be invested in accordance with the said minute order.

#### SUMMARY

Attorney General's Opinion No. WW-548 applies to investment of the funds of the Teacher Retirement System, and said funds may not be invested in corporate stocks and bonds other than those in which the Permanent University Fund of The University of Texas is invested, or may be invested under the standards established by the Board of Regents.

Very truly yours,

WILL WILSON  
Attorney General of Texas

By

  
Howard W. Mays  
Assistant

HWM-s

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APPROVED:

OPINION COMMITTEE

W. V. Geppert, Chairman

Marietta McGregor Payne

W. Ray Scruggs

Elmer McVey

Tom McFarling

REVIEWED FOR THE ATTORNEY GENERAL

By: Leonard Passmore